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TO PROVIDE FOR AN INDIAN HOUSING PROGRAM FOR CONSTRUCTION AND FINANCING OF HOUSING FOR INDIANS, AND FOR OTHER PURPOSES

JULY 29 (legislative day JULY 25), 1983.—Ordered to be printed

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Mr. ANDREWS, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 856]

The Select Committee on Indian Affairs, to which was referred the bill (S. 856) to provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass. The Committee adopted an amendment in the nature of a substitute. Senator Goldwater objects to the provisions in the bill that transfer the responsibility for Indian housing from the Department of Housing and Urban Development to the Department of the Interior, Bureau of Indian Affairs.

PURPOSE

S. 856, The Indian Housing Act of 1983, provides for the creation of a comprehensive Indian housing program to be located in the Bureau of Indian Affairs, within the Department of the Interior, which would provide financial assistance to Indian tribes for the repairs, renovation, acquisition or construction of safe, sanitary, and decent housing for Indian families.

BACKGROUND AND NEED

In 1937, Congress enacted into law the National Housing Act with the goal of upgrading the quality of housing for all Americans. Despite the federal programs that were developed to attack

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this national problem, it was not until the mid-1960's that any serious efforts were directed toward addressing the deplorable state of housing available to Indian families on reservations.

Since the mid-1960's the primary source of housing assistance to Indian tribes has been the HUD public assistance housing program. As of February 1981, approximately 39,400 units were made available through this program. In addition to the HUD program, the Bureau of Indian Affairs' Housing Improvement Program (HIP) provides home repair and improvement, and some new construction.

Although significant strides have been made to improve the quality of shelter for Indian families, housing continues to be a critical need on reservations. It is well documented that Indians and Alaska Natives have the lowest incomes, the fewest economic opportunities, the poorest education, the highest mortality rates, and the worst housing of any group of American citizens. Because of the unique moral and legal relationship that exists between the federal government and Indian tribes, it has been the government's responsibility to provide tribes with a range of social services. The primary supplier of these services has been the Bureau of Indian Affairs and the Indian Health Service.

Indian tribes and Alaskan Natives have come to depend on the assistance of the HUD and Bureau of Indian Affairs' housing programs. However, in the last two years, the Administration has been critical of the HUD program contending that it was too complex and costly; and as a result targeted it for termination. In the fall of 1981, the Administration, through the OMB established an inter-agency task force on Indian housing. The mandate of the task force was to review Indian housing and related programs in order to improve the housing delivery system, and to propose ways to draw private capital onto reservation areas. As a result of this study the Administration formula included nine criteria that an Indian housing program should meet. These criteria were set forth in the statement of the Department of the Interior to this Committee dated April 19, 1983, included in this report. It is the opinion of the Committee that S. 856 substantially meets the criteria set forth in this communication.

In line with the Administration's intention to terminate the existing HUD Indian Housing Program, it requested zero-funding for fiscal year 1982. However, Congress appropriated monies for 3,160 Indian housing units. HUD then asked the Congress to rescind the fiscal year 1982 funds that were appropriated, but its request was refused.

Again, for fiscal year 1983, the Administration requested no funds for the HUD Indian Housing Program. Once more, the Congress appropriated 2,000 units for the HUD program.

It is worth noting that the Administration's charges that the current program is too costly is founded on the fact that the 2,000 units appropriated in fiscal year 1983 required $12 million in new contract authority and $494.3 million in new budget authority. The deep principal and interest subsidy feature of the HUD public assistance housing program requires the obligation of the United States for as much as 30 years. The criticism leveled at the Indian housing program appears equally applicable to the HUD public as-

sistance program generally. In hearings before the Select Committee on Indian Affairs in the 97th Congress HUD witnesses acknowledged that the cost of Indian housing under this program is not significantly different from non-Indian public assisted housing located in similar geographic areas.

While the Administration continued to request no monies for fiscal year 1984 for the existing HUD Indian Housing Program, it did formally include an outline of proposed legislation in its fiscal year 1984 budget request for HUD. The proposed Indian housing initiative was a component of S. 1338, the "Housing and Community Development Act of 1983," when that bill was introduced in early Spring of 1983. However, in late March when S. 1338 was marked up by the Committee on Banking, Housing, and Urban Affairs, the Indian component was deleted. The Housing and Banking Subcommittee staff believed that further consultation with the tribes was necessary to formulate a more appropriate housing program.

On June 20, 1983, Senators Garn and Tower sponsored an amendment to S. 1338 which included a new HUD Indian housing initiative. However, this amendment is not substantially different than the program which was deleted from markup. Response from the tribes as to this amendment has been generally negative. Among the reasons cited was that the Indian housing program proposed under this amendment was as unworkable and complex as the current HUD program. S. 1338 is currently pending floor action.

In addition to S. 1338, the House Banking Committee has pending before it two housing bills. The first, H.R. 1, a reauthorization of the existing HUD public assistance housing program recently passed the House and is pending before the Senate. H.R. 1 provides for the continuation of the current Indian housing program. The second, H.R. 1901, is the House companion bill to S. 1338.

SUMMARY OF MAJOR PROVISIONS

S. 856 would establish three programs designed to meet the housing needs of three levels of income that have been identified on Indian reservations and trust areas. These programs are as follows:

Title I: Provides a statutory basis for the existing BIA Housing Improvement Program (HIP). This program provides assistance in the form of grants to Indian families in the lowest income levels or in the most isolated or extreme circumstances.

Title II of this bill provides for the establishment of an Indian Housing Finance Fund to provide housing assistance to Indian families, who, although they have some ability to pay for their own housing, cannot realistically support a full mortgage. Families assisted under this title would be required to make payments to the tribe based upon ability to pay. After administrative expenses such as insurance premiums and maintenance reserve charges are deducted from the payments, the balance would be placed in an Indian Housing Finance Fund to be made available to other Indian housing projects. Title II imposes sanctions on both the tribe and the individual for failure to make payments as agreed upon. This category

would comprise approximately 70 percent of the total participants in the housing program.

Title III of this bill would provide housing assistance to that 10 percent or less of Indian families who have sufficient income to support an average housing mortgage, but because of the trust or restricted status of their land cannot obtain a mortgage loan. The bill would provide a federal guaranty for loans to participants under this title.

S. 856 provides for the creation of a comprehensive Indian housing program in the BIA. Since the BIA is directly responsible for Indian and Alaska Natives, it is a logical agency to administer this program. Under the current HUD Indian Housing Program, the coordination of three agencies is required to administer the program: Indian Health Services provides water and sanitation infrastructure; the BIA conducts lease preparations and builds access roads for housing projects; and HUD provides the funds to build the units. S. 856 will only require the coordination of IHS and the BIA.

S. 856 directs that the Secretary of the Interior shall establish an office of Indian Housing Programs in the BIA. It will be responsible for the administration of the programs created by the Act. The Office of Indian Housing Programs will be administered by a Director who will be under the direct supervision of the assistant Secretary of the Interior for Indian Affairs. The Act spells out the specific responsibilities for administering the programs, particularly financial accountability, which is a major problem under the current HUD program. The responsibilities of the tribe, and the participating families are also detailed in order to promote maximum success of the Indian housing program.

The Committee adopted a new section (408) to provide for Davis-Bacon coverage of the federally assisted Indian housing construction projects authorized under titles I and II.

Davis-Bacon, enacted in 1931 and administered by the Department of Labor (DOL), requires that contractors on federally assisted construction projects pay the prevailing wages in the local community where the project is located. The purpose is to prevent contractors from importing workers to an area and paying them less than prevailing community wage. Davis-Bacon has applied to all Indian housing projects funded by the Department of Housing and Urban Development through the public housing program. Section 408(a) makes Davis-Bacon applicable to all projects under titles I and II of S. 856. The Secretary of the Interior must require all contractors to pay wages prevailing in the communities where projects are scheduled for construction.

Under Davis-Bacon regulations, trainees enrolled in union apprenticeship programs or in non-union training programs certified by DOL's Bureau of Apprenticeship and Training (BAT) may be paid a percentage of the prevailing wages set for journeymen. Union or BAT training programs are generally unavailable to persons living on or near Indian reservations. Since very few contractors are willing to hire semi-skilled or partially trained workers at full journeymen wages, helpers or apprentices are often imported to reservation housing projects even though local labor is plentiful.

In fact, Indian reservations have the highest unemployment rates in the Nation, some as high as 70 percent.

To encourage employment of local labor in apprenticeship and trainee positions, section 408(b) permits tribes to establish approved training programs in conjunction with planned housing projects. The Committee intends that these programs be more flexible than those certified by BAT. They may exist just for the life of the project and for the specific purpose of providing some formal instruction in conjunction with on-the-job training under the supervision of journeymen mechanics and laborers. Under this section, the Secretary of the Interior shall, in consultation and cooperation with the Secretary of Labor, approve programs tailored to the specific needs and resources of an Indian tribe in connection with proposed housing projects and shall set standards designed to encourage the establishment of such training programs.

Trainees in approved programs may be hired at not less than 75 percent of the established prevailing wage for the corresponding class of laborers or mechanics. Further, no more than one of three employees in any class of workers may be paid the trainee wage. While the section envisions specifically established construction trades training programs to encourage participation of workers with some skills, it will require tribes to take some positive action in conjunction with the housing projects to increase opportunities for local workers.

Section 408(c) will allow the Secretary of the Interior, on notification to the Secretary of Labor, to waive Davis-Bacon at the request of tribes in Alaska for projects with 20 units or less. This subsection responds to the impracticability of establishing trainee programs in very small, extremely isolated communities in Alaska where instructors and other resources are simply unavailable for training programs. Because there are few employment alternatives, these communities also have the greatest need or local hire on housing projects. Besides the 20-unit maximum for allowing a waiver, those employed under a waiver must live on or near a reservation or native village and must be paid not less than 75 percent of the prevailing wage in the community.

Section 408(d) authorizes $5 million each for fiscal year 1984 through 1987 for training programs authorized under subsection (b).

LEGISLATIVE HISTORY

S. 856 is almost identical to S. 2847 introduced in the 97th Congress. It is identical, with few exceptions, to its companion bill, H.R. 1928 introduced by Congressman Udall earlier this year.

Senator Cochran reintroduced S. 2847, on March 18, as S. 856, "The Indian Housing Act of 1983." Cosponsors on the reintroduction include Senators Andrews, Cohen, Nickles, Stevens, Stennis, and Murkowski. This legislation was the subject of extensive field and national hearings in the 97th Congress. Additionally, the Select Committee on Indian Affairs held Washington, D.C. hearings in late September of 1982. Both bills were reported out favorably from their respective committees in the 97th Congress, but due to

the heavy schedule during the lame-duck session, neither bill was acted upon in either house.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On June 28, 1983, the Select Committee on Indian Affairs, by a unanimous vote of a quorum present, recommends that the Senate pass S. 856, as amended.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 provides that the Act may be cited as the "Indian Housing Act of 1983."

FINDINGS AND POLICY

Section 2

Section 2 contains congressional findings and declarations concerning the state of Indian housing and the need for Federal assistance. The Committee notes that the declaration of policy that Indians should be assisted in obtaining decent, safe, and sanitary housing is not new. The 1937 National Housing Act, as supplemented by the 1949 Housing Act, established that as a goal for all Americans.

DEFINITIONS

Section 3

Section 3 defines various terms used in the bill.

Paragraph (1) defines "adjusted family income". Adjusted family income is determined by reference to gross family income a term that is not defined in the Act. The Committee expects that the Secretary would, by regulations, define gross family income for purposes of determining adjusted family income. Income not includable in gross income for Federal income tax purposes would not be includable in gross family income. In addition, adjustments, by regulation, would have to be made with respect to gross income earned from small family businesses, such as ranch or farm operations.

Paragraph (2) defines "amortization payment". The Committee intends that this definition be used as a basis for determining the maximum family payment and as a basis for establishing the theoretical amortization schedule referred to in sections 209 and 216.

The Committee adopted an amendment to paragraph (2) to establish separate amortization schedules for a 25-year period and a 15-year period. A unique feature of S. 856 is that it provides an incentive to rehabilitate existing Indian housing stock which can economically be brought into a standard condition rather than build more expensive new housing. This is a feature which is not practicably available under the existing HUD Indian housing program. Funds for such purposes are presently available only through a special discretionary fund under the Community Development Grants program administered by HUD.

Because of the availability of rehabilitation assistance in addition to new construction or acquisition under title II, a family electing to contract for rehabilitation would not be equitably treated in terms of the repayment requirements of title II. The repayment obligations of an assisted family under title II are based upon the ability of the family to pay for housing, not upon the cost of the housing assistance provided. These payments are required for a period of 25 years. Under title II as introduced, assuming all other things are equal, a family electing to contract for rehabilitation assistance at a cost, for instance, of $20,000 would pay the same amount, over the 25-year contract period, as a family electing to contract for a new house at a cost of $50,000. Not only would this be inequitable, it would also work as a disincentive to elect the less expensive approach of rehabilitation. The amendment would eliminate this inequity and disincentive by requiring a shorter payment period for rehabilitation assistance costing less than $20,000. Based upon an average cost of a new house of $50,000, it would probably not be economical to rehabilitate an existing structure to that value at a cost of in excess of $20,000.

Paragraph (5) defines "Indian" as being a member of an Indian tribe or an Indian as defined in section 19 of the Act of June 18, 1934 (48 Stat. 988); or who is a Native as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602). The second portion of the definition is merely meant to make clear that persons of one-half or more degree Indian blood and not members of an Indian tribe would be eligible for assistance under this Act as intended in the 1934 Act. While this definition, when combined with the definition of "Indian tribe" in paragraph (10), clearly includes Alaska Natives as eligible participants, the Committee received testimony from Alaska Native representatives expressing the concern that the language was ambiguous. The Committee adopted an amendment to the paragraph to make clear the eligibility of Alaska Natives. The Committee also received comments from Oklahoma tribes expressing their concern that the definition of "Indian" might be construed to exclude them. The definition of "Indian"in section 19 of the Act of June 18, 1934 (48 Stat. 988) does include Indians in Oklahoma and it is the intent of this Act that Indians in Oklahoma be eligible for these housing programs.

Paragraph (6) in the bill as introduced, defined the term "mortgage". The Committee adopted an amendment deleting this paragraph and renumbering succeeding paragraphs accordingly. The only provision in which the term was used in the bill was modified by a later amendment resulting in the deletion of the term.

Paragraph (8) defines "standard housing" by setting out broad, minimum standards of construction, heating, plumbing, electrical systems, and dwelling size which must be met in providing housing assistance under this legislation, unless waived by the Secretary upon request of a tribe or tribal housing agency.

In adopting these broad minimum standards, it is the intent of the Committee to insure the maximum amount of flexibility to an Indian tribe in developing the kind of housing which meets the economic, social, environmental, and cultural needs of its people. The application of the detailed, rigid, urban-oriented minimum property standards of the Department of Housing and Urban Development,

in the existing Indian housing program has often resulted in expensive and inappropriate housing for Indians. This section specifically recognizes the authority for tribes to develop their own housing codes.

The Committee also intends that the standards be minimum standards and that tribes, within reason, have the flexibility of setting higher standards. The definition also requires that housing developed be "modest in size and design". It is the intent of this provision, when coupled with the over-all philosophy of the bill, that as much housing be developed as inexpensively as possible while meeting the minimum standards.

The Committee elected not to set a maximum cost of housing assistance in the legislation because of the philosophy and structure of the legislation and because of the disparate economic conditions prevalent among tribes scattered throughout the Nation, particularly those in Alaska. However, the Secretary has sufficient authority to prevent abuses that might arise from the lack of such cap on cost in the statute.

Finally, the definition permits the Secretary, in appropriate circumstances, to waive the minimum standards. In some cases, application of the minimum standards may not be practical or appropriate. For instance, the Committee is advised that the installation of plumbing in a house built for an Alaska Native on the permafrost of the Arctic North is either impossible or exorbitantly expensive. Certain Indian tribes, for religious and for cultural reasons, might reject the use of electricity in their villages and application of minimum standards for rehabilitation of traditional housing such as that of the Hopi tribe and the Pueblos of the southwest may not be appropriate.

Paragraph (10) defines the term "tribe". The Committee received testimony recommending that Alaska Native non-profit corporations be specified as eligible applicants under the term "tribe". Under the definition, it is possible that four separate Alaska Native entities would be eligible to apply for funding under the legislation. First, Native groups organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 988) would be eligible since the provisions of that Act were extended to Alaska Natives in 1936. Second, Native villages would be eligible. Finally, both the regional and village profit corporations established pursuant to the Alaska Native Claims Settlement Act (86 Stat. 688) are eligible. Should any eligible Alaska entity desire that the program be administered by a non-profit Native corporation, they can do so by designating such corporation as their tribal housing agency under the terms of the bill.

TITLE I—INDIAN HOUSING IMPROVEMENT PROGRAM

Section 101

Subsection (a) provides for the establishment of a Housing Improvement Program in the Bureau of Indian Affairs. The Committee notes that this title does not establish a new program, but simply creates statutory underpinnings for the Housing Improvement Program (HIP) that the Bureau has been administering for

approximately 15 years under the general authority of the Snyder Act (25 U.S.C. 13).

Subsection (b) authorizes the Secretary to make grants or provide housing assistance to assist families who, because of very low income, cannot afford any payment for housing or who because of their extreme geographic isolation, could not practically participate in other housing assistance programs. The Committee amended the subsection to also permit the Secretary to make such grants in cases of extreme hardship.

Subsection (c) provides that assistance under the HIP program shall be consistent with relevant tribal housing plans and, where the tribe requests, shall be made available through the tribe under agreements. In the absence of a tribal request, the Secretary is authorized to make the assistance available either directly to the individual, by contracting with a private firm or through the resources of the Bureau of Indian Affairs. Where the assistance is to be provided directly to an individual or family, the Committee expects that the Secretary would adopt appropriate safeguards to insure that funds are not misused or misspent.

Subsection (d) would permit a tribe, or tribal housing agency, providing the assistance under an agreement with the Secretary, to assess a minimum charge against the assisted family with such assessment to be used by the tribe for housing-related purposes. While title I assistance is intended for those families who are practically destitute or who have no realistic ability to make any kind of house payments, this subsection was adopted by the Committee at the request of certain Indian tribes who wished to have the ability to assess a small charge against assisted families in the interest of individual pride. This assessment is discretionary with the tribe and may not be required by the Secretary.

ELIGIBLE ACTIVITIES

Section 102

Subsection (a) provides that the assistance can be provided to make (1) emergency repairs to substandard housing, (2) major repairs to existing standard housing which can, economically, be placed in a standard condition, and (3) to construct or acquire standard housing. Paragraph (2) makes clear that major repairs are available to repair substandard housing to standard condition and to renovate or expand standard housing in appropriate instances, e.g., in expansion to meet family additions. Finally, the Committee intends that the use of the authority created in paragraph (3), to construct new housing be used sparingly when alternative funding from other sources is not available.

Subsection (b) authorizes the Secretary to require insurance on housing developed under this title.

RESERVATION OF INTEREST

Section 103

Subsection (a) provides that the Secretary may not approve the lease or sale of individual trust land or the lease of tribal land

upon which a house developed with assistance under this title is located unless the provisions of section 104 are met.

Subsection (b) provides that the Secretary shall record a lien upon any fee lands upon which a house is developed with assistance under this title, setting out the encumbrance by section 104.

Subsection (c), as added by a Committee amendment, simply makes clear that the requirements of section 103 and 104 shall only apply to such land as is reasonably necessary as a site for the assisted housing.

SALE OF PROPERTY

Section 104

Section 104 authorizes the sale of any house constructed, acquired, or repaired with funds under section 103(a)(2) or (3) of this title. However, the sale price must be at least the value of the assistance provided reduced by 5 percent a year for 20 years. The minimum sale price is to be repaid to the United States and any balance would be the property of the assisted family. The Committee adopted an amendment which would limit the repayment requirement with respect to major repair under section 103(a)(2) to financing in excess of $5,000.

Assistance provided under this title is a complete subsidy to families who are destitute or who have no practical means of paying for housing. While there is very little market for the sale of houses on Indian reservations, it is expected that houses developed under this title, as a subsidy, might be sold. This section, taken with section 103, is designed to prevent an undue windfall to an assisted family from such a sale.

AUTHORIZATION

Section 105

Section 105 authorizes appropriations for carrying out title I. Funds are authorized from fiscal year 1984 through fiscal year 1987.

TITLE II—INDIAN HOUSING FINANCE FUND

Section 201

Section 201 provides for the establishment of an Indian housing finance fund to provide financing to Indian tribes for the construction, acquisition, or rehabilitation of standard housing for Indian families who have some ability to pay for housing, but who, because of limited income or other reasons, cannot obtain private financing.

TRIBAL HOUSING PLAN

Section 202

Section 202 provides that a tribe must prepare and submit a multi-year tribal housing plan to the Secretary to become eligible for financing under this title. The section sets out the minimum factors to be dealth with in such a plan.

APPLICATION

Section 203

Subsection (a) provides for the submission of applications from tribes to the Secretary for funding under this title. The philosophy of S. 856 is to encourage the development of Indian housing by meeting the minimum standards as inexpensively as possible.

Subsection (b) establishes the minimum, non-exclusive criteria to be applied by the Secretary in evaluating applications for funding. Several witnesses before the Committee objected to the criterion establishing a priority for tribes who have not received financing from the Fund in prior years. While the Committee declined to delete that criterion, it is not the Committee's intent that it be an absolute determining factor for the Secretary.

Subsection (c) requires that the application contain a tribal designation of a tribal housing agency responsible for implementing the project agreement. The committee intends that the Agency, of whatever form or structure it may be, have the necessary power, authority, and structure necessary to carry out the terms of the agreement, including commercial transactions.

Subsection (d) provides that the Secretary shall encourage, but may not require, multitribal applications in order to achieve economy of scale. It may be that certain tribes, particularly the very small tribes, may not be able to efficiently implement a project because of the small number of units involved. In those cases, it might make better economic sense for those tribes to join in a multitribal project.

PROJECT AGREEMENT

Section 204

Section 204 provides that, after approval of an application, the Secretary and the tribal housing agency shall enter into a project agreement setting out the terms of the financing. Among other things, the agreement is to set out the minimum number of housing units to be developed with the funds allocated. It is the intent of this provision to provide an incentive to tribes to develop as many units as possible as inexpensively as they can within the overall minimum standards.

ADMINISTRATIVE AND FUNDING PROVISIONS

Section 205

Section 205, relating to the authority of the Secretary to attach the unobligated trust funds of Indian tribes and individuals, was substantially modified by the Committee. This provision was almost uniformly objected to by representatives of Indian tribes and organizations. The tribes assert that this provision is wholly inconsistent with the trust relationship existing between United States and Indian tribes; is unfair to Indian tribes in that no similar penalty is exacted of other governmental grantees of the Federal Government; and is insulting to the tribes in that it did not recognize the exemplary administrative record of many with existing housing programs nor give them the benefit of any doubt as to

their capability and willingness to meet the financial obligations they would incur in a project agreement entered into pursuant to this title.

When this legislation was developed by the Committee in the 97th Congress, the Committee adopted the initial trust fund provision with reluctance because of the very issues and objections raised by the tribes. However, the Committee was advised that many Indian tribes, operating housing projects under the existing HUD Indian housing program, often failed to enforce collections of monthly payments from assisted families and, therefore, were in serious financial difficulties.

In reporting similar legislation in the 97th Congress, the Committee imposed stricter requirements on the Secretary in exercising the attachment authority and strengthened the due process procedures available to tribes and individuals who might become subject to that attachment authority. Nevertheless, tribal witnesses continued to object to the provision in hearings on S. 856 in this Congress. Although the Committee is unwilling to completely delete this section, the Committee in recognition of their further concern has further modified the provision as set out below.

Subsection (a) provides that the project agreement must set forth the ability and undertaking of the tribe and the tribal housing agency to insure collections of amounts due from assisted families and the deposit of required residual receipts into the Fund. It also provides that the tribe must agree to require assisted families, in a housing assistance contract, to agree that the unobligated trust funds of the adult members of the family be subject to attachment for failure to meet their financial obligations.

Subsection (b) provides that the Secretary may not require an Indian tribe to agree to the attachment of their unobligated trust funds in the first project agreement entered into with such tribe. However, the Secretary must require such agreement in any subsequent project agreement if the Secretary determines (1) that the tribe, in the administration of any previous project, has established a pattern of failure to meet its financial obligations and (2) has not cooperated with the Secretary in eliminating any tribal or family arrears or defaults. Such authority would be applicable to any project agreements being administered by such tribe. However, once the Secretary has required the inclusion of such an agreement in a project agreement, the tribe shall have the right, at any time, to petition the Secretary for a revocation of the authority and the Secretary shall revoke the authority if the Secretary finds that (1) the tribe has satisfied all existing defaults and arrears and (2) has maintained, for a period of at least one year, a clear record in meeting its financial obligations.

Subsection (c) provides that any request for attachment of tribal trust funds may be referred to the attorney general for attachment only if a tribe has failed to meet its financial obligations assumed in the agreement and the Secretary has made a specific finding that the tribe has not acted in good faith in using its authorities and powers to collect from assisted families. Subsection (d) provides that the Secretary, before referring to the Department of Justice a request for attachment of tribal or individual trust funds, must

afford such owners of trust funds due process procedures and appeals.

Subsection (e) provides that the Secretary shall not deny housing assistance under this title on the grounds that a tribe or Indian family has no trust funds.

The Committee has adopted and retained a provision requiring the attachment of certain tribal trust funds, not primarily as a means of guaranteeing that repayment of the funds is made, but more as an incentive to Indian tribes to use its own authorities, procedures, and forums to insure that assisted families make the payments which they have agreed to make. In doing so, the Committee has had to balance this interest with the trustee and fiduciary obligations of the United States to Indian tribes and individuals. Because of this need to balance competing interests of the United States, the Committee intends that the authority to attach trust funds be narrowly interpreted and sparingly applied.

DISBURSEMENTS

Section 206

Subsection (a) provides that the Secretary shall make an initial disbursement from the project allocation in an amount not in excess of $50,000 or 3 percent of the total amount for start up costs and preliminary planning and administration. Further disbursements from the fund under the project agreement would be made from the Secretary to the contractor developer of the assisted housing based upon completion of construction phases as provided in section 207. Completion is to be certified jointly by the agency and a person designated by the Secretary.

Subsection (b) provides for a final inspection and certification of completion of the project by the Secretary, agency, and contractor, and where appropriate, the Indian Health Service.

Subsection (c) requires a tribal housing agency to maintain a separate account for funds disbursed to it under the project agreement.

Subsection (d) requires a tribal housing agency to put all housing units under development within one year of the execution of the project agreement or the funds for such units would be subject to recapture by the Secretary. The Secretary may extend the period of time for ninety days in certain circumstances.

SUBMISSION OF FINAL PLANS AND SPECIFICATIONS

Section 207

Section 207 provides that, within 120 days of the initial disbursement of funds, the agency must submit its final plans and specifications for the housing units to be developed which must include a phased construction schedule. The Secretary shall approve the plans if they meet the minimum standards established in section 3(9) and are otherwise consistent with the project agreement. The section provides that the Secretary shall encourage the conservation and efficient use of energy in such housing.

SITE ACQUISITION

Section 208

Subsections (a) and (b) provide that a tribal housing agency must secure fee title to any fee lands or a 25-year lease with option to renew for 25 years on any tribal or individual trust lands to be used as the housing site for houses developed under the project agreement. The agency must secure this interest without cost to itself.

Subsection (c) would permit the Secretary to authorize the use of project funds to acquire lands for housing development if the tribe has no suitable lands. This authority is meant to be limited to the acquisition of lands for housing purposes and only so much land as it needed for that purpose. Land purchases should be limited to within the reservation or the service area of the BIA, except where such a limitation is inappropriate.

HOUSING ASSISTANCE CONTRACT PROVISIONS

Section 209

Subsection (a) provides that, upon application by an eligible family, the agency and family would enter into a housing assistance contract setting out the responsibilities of each party.

Subsection (b) provides that the family must agree in such contract that it will provide so much of its land as is necessary for the development of the house; that it will make monthly payments established based upon its income for the 15- or 25-year period of the contract, as the case may be; that it will accept responsibility for all maintenance and utilities; and that it will subject the trust funds of the adult members of the family to attachment as provided in section 205. The subsection requires a biennial review of income levels and limits any increase of monthly payments based upon such review to 50 percent in any one year. Nothing in this subsection is meant to prevent an agency from establishing policies permitting a family, on its own motion, to request a review at an earlier time.

Subsection (c) provides that, where an assisted family has fully met its financial obligations, the agency will transfer ownership of the house to the family at the end of the contract period. The underlying lands will revert to their former status. If the house is built upon tribal trust lands, the lease would expire and the lands would revert to the control of the tribe. The subsection is intended to encourage the tribes not to deny the family owning the house the use of the housing site and, if it does, the subsection requires the Secretary, the tribe, and the family to negotiate the tribal purchase of the house at not less than the fair market value.

MINIMUM PAYMENT

Section 210

Section 210 provides that the project agreement will require assisted families to make a minimum monthly payment which is to be composed of an administrative charge, a premium for insurance, and a reserve for maintenance. The Secretary and the agency will

review the minimum charge which, subject to approval of the Secretary, may be adjusted upward or downward as circumstances and conditions warrant.

RESIDUAL RECEIPTS

Section 211

Subsection (a) requires an agency to establish an interest-bearing account for residual receipts into which shall be deposited payments made by assisted families in excess of the minimum monthly payment. The Committee amended the subsection to require the creation of an interest-bearing account and to permit the use of such earned interest by the agency either to make up any end-of-year deficit in their residual receipt payment or to assist families as provided in a new subsection 214(b).

Subsection (b) requires that the residual receipts shall be paid by the agency to the Secretary for deposit in the fund annually on a fiscal year basis, and further requires that the agency must certify, quarterly, that it has made the necessary collections and has deposited them in its residual receipt account. Since it would be difficult to determine the family income levels at the beginning of residual receipts would be that amount either certified by an independent audit or negotiated by the Secretary and the agency. Thereafter, the amount required to be deposited would be based upon an independent audit of the income levels.

Subsection (c) provides that an agency must not permit its deposits to fall below 90 per cent of the amount due. If such payments do fall below that level, the Secretary shall declare a default and institute action to make necessary collections. The committee adopted an amendment striking a phrase which would have triggered a default upon a failure to make the required quarterly certification. The quarterly certification requirement was included in the bill as a Secretarial monitoring device and as an early warning device to prevent tribes or agencies from slipping into a default position. The Committee expects that, when this warning occurs, the Secretary would work with the tribe to remedy the underlying problem.

MONITORING AND INSPECTION

Section 212

Subsection (a) provides that the agency will be primarily responsible for the establishement and implementation of monitoring and construction inspection procedures necessary to assure compliance with the minimum standards and with approved drawings and specifications. The Committee intends that the Secretary will make periodic checks of the agency's procedures and implementation and, if they are not adequate,. will take steps to resolve the matter as a requirement of for continuation of the project.

Subsection (b) provides that the Indian Health Service, in the course of carrying out its other responsibilities may monitor the agencies' and contractors' efforts and make recommendations to the Secretary based upon its findings. The Indian Health Service is responsible for providing sanitation facilities on Indian reservations and to Indian housing. In carrying out this responsibility, its

engineers would have an opportunity to observe ongoing construction and inspection. This subsection is intended to permit the Indian Health Service to provide another check on adequate compliance.

BONDING REQUIREMENTS

Section 213

Section 213 requires various kinds of bonds and sureties in implementing a project agreement.

MAINTENANCE AND UTILITIES

Section 214

Section 214 provides that, where an assisted family fails to adequately maintain a house to the extent that health or safety is impaired or the capital value of the house is in jeopardy, the agency may use the reserve for maintenance establish by section 210 to correct the matter. The amount contributed by a family during the period of a contract, less any amount used as provided in this section and excluding an acrued interest attributable to such contributed amount, shall be the property of the family.

The Committee amended section 214 by adding a new subsection (b). Indian witnesses have criticized S. 856 because it makes no provision for assisting families in paying expenses associated with homeownership, such as routine maintenance and utilities. The existing HUD Indian housing program makes allowance for this factor by the annual appropriation of "operating subsidy" funds to subsidize such costs. The high cost of these public subsidies for utilities, etc., has been a focal point of criticism of the existing HUD housing program. In order to deal with the objections of the tribes to S. 856 on this point and, yet, not to adopt an operating subsidy program like the HUD program, the amendment authorizes the use of interest earned on the two accounts to be maintained by the tribal housing agencies to assist in meeting those costs.

AWARD OF CONTRACTS

Section 215

Section 215 provides that an agency shall issue contracts in accordance with procedures satisfactory to the Secretary and in a manner designed to insure judicious use of Federal funds. the section also requires Indian preference in contracts, subcontracts, and employment, but would permit the relevant tribe to waive the requirement in specific cases.

SALE OF HOUSING

Section 216

Section 216 authorizes the purchase or sale of a house developed under this title during the contract period. However, the sale or purchase price must be at least equal to the amount of the principal which would theoretically be remaining on such house at the time of sale or purchase based upon the amortization schedule de-

fined in paragraph (3) of section 3. The minimum price would be increased by the amount of any deficit a family might have in the reserve for maintenance account attributable to such family. The amount of the minimum sale or purchase price would be returned to the Fund and the balance would be the property of the family.

ASSIGNMENTS

Section 217

Subsection (a) authorizes, if otherwise provided by existing law, the inheritance or assignment of an interest in a housing assistance contract, but requires that heirs, devisees, or assignees must agree to the terms of the contract and that an assignee must otherwise be eligible for assistance under this title.

Subsection (b) provides that abandoned houses will revert to the agency and may be made available under a new contract with a different family.

DOWNPAYMENT ASSISTANCE

Section 218

Section 218 authorizes the use of project funds to assist families in making a down payment on housing financed with private funds. The family must repay the amount provided within ten years and such amount would be deposited in the Fund as residual receipts.

CREDIT ELSEWHERE

Section 219

Section 219 provides that, if the income of an applicant family is sufficient to realistically support a private mortgage loan, such family must secure at least two bona fide rejections on a housing loan application to private lending institutions before becoming eligible for assistance under title II.

RENTAL HOUSING

Section 219

Section 220 provides that funds under this title may be used to construct rental housing provided that the appropriate requirements of the Act with respect to homeowner projects shall be applicable. The Committee intends that, where the tribe opts for rental housing the tribe shall be primarily responsible for the financial obligation.

AUTHORIZATION

Section 221

Section 221 authorizes the appropriation of funds for fiscal years 1984-87 to carry out the title.

TITLE III—INDIAN HOUSING LOAN GUARANTY FUND ESTABLISHMENT OF FUND

Section 301

Section 301 establishes an Indian housing loan guaranty program to provide access for Indians and Indian tribes to private lending institutions. Indians and Indian tribes, who might otherwise be able to support mortgage payments, have generally been unable to secure private financing because of the trust status of their lands or other reasons associated with the unique legal status of Indian tribes. The eligibility of tribes for such guarantees should enable tribes to seek loans to build rental or other housing for available markets on the reservation or in Indian communities.

GUARANTEE AUTHORITY

Section 302

Section 302 authorizes the Secretary to guarantee not to exceed 100 percent of any loan made to an eligible Indian or Indian tribe. The committee amended the section to authorize such guarantees not only for Indian or Indian tribes located on trust lands, but for such borrowers located in Indian or Alaska Native communities.

INTEREST RATE

Section 303

Section 303 provides that guaranteed loans will bear interest at rates agreed upon between the lender and the borrower and determined by the Secretary to be reasonable, but not more than is being charged in the area by lenders on loans not insured or guaranteed by the United States.

PREMIUM CHARGES

Section 304

Section 304 permits the Secretary to fix premium charges on guaranteed loans to cover expenses and probable losses.

APPLICATION

Section 305

Section 305 provides that applications for guarantees must be submitted to the Secretary for prior approval and that the Secretary shall issue a certificate of guaranty only when there is a reasonable prospect of repayment.

SALE OR ASSIGNMENT OF LOANS

Section 306

Section 306 provides that a maker of a guaranteed loan can sell the loan to a financial institution subject to examination by the United States, a state, or the District of Columbia.

LIMITATIONS ON LOANS

Section 307

Section 307 provides that loans can only be guaranteed when made by a lender subject to the same examination and to loans which mature in a period not to exceed 33 years; which are not guaranteed by other Federal agencies or made by an Indian tribe to its members; which provides that the liability under the guaranty shall decrease or increase as the unpaid portion of the loan fluctuates; and which is not subject to several limitations and restrictions otherwise imposed by Federal law on lending institutions.

REGULATORY AUTHORITY

Section 308

Section 308 provides that, where the Secretary determines that a lender or holder of a guaranty certificate fails to maintain certain minimum banking practices, the Secretary may refuse to guarantee further loans made by such institutions, but must honor any existing guaranty certificates held by such lender.

DEFAULT PROCEEDINGS

Section 309

Subsection (a) provides that, when there is a default on a guaranteed loan, the lender may elect to pursue one of two options:

(1) the lender may initiate appropriate foreclosure proceedings in a court of competent jurisdiction, with written notice to the Secretary, and, upon a final order authorizing foreclosure, the lender shall be entitled to 100 percent of the amount due on the loan from the Secretary. The Secretary shall be subrogated to the lender's rights after payment of the guaranty.

(2) the lender may immediately seek reimbursement from the Secretary under the guaranty without foreclosure proceedings, but will be limited to 95 percent of the amount due.

Subsection (b) provides that the Secretary, in the Secretary's discretion, may accept an assignment of the loan from a lender when it is in default if that is in the interest of the United States. The Secretary shall pay the amount due and shall be subrogated to the rights of the lender.

Subsection (c) provides that all reasonable collection efforts must be used before reimbursement is available. Upon such payment, the note must be assigned to the United States and the lender shall have no further claim against the United States.

CONCLUSIVENESS

Section 310

Section 310 provides that the certificate of guaranty shall be conclusive evidence of the eligibility of the loan for guaranty and the full faith and credit of the United States is pledged to the payment, but the Secretary shall have all the legal defenses against the original lender arising out of fraud or misrepresentation.

USE OF GUARANTEE FUND

Section 311

Subsection (a) provides for the establishment of the Fund as a revolving fund without fiscal year limitation. The Guaranty Fund is to operate separately from the Finance Fund established by title II and the amounts in these funds are not to be combined. $2,500,000 is authorized for fiscal year 1984; $3,000,000 for fiscal year 1985; and $3,500,000 for fiscal years 1986 and 1987.

Subsection (b) provides that the fund may be used to guarantee loans in the aggregate amount of not to exceed $400,000,000.

Subsection (c) defines the assets and liabilities of the Guaranty Fund and authorizes the Secretary to make agreements to service loans acquired or guaranteed under this title.

Subsection (d) authorizes the Secretary to use the Fund to make various required payments such as insurance or taxes, to acquire security property at foreclosure sales, and for administrative expenses.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401

Subsection (a) provides for the creation of an Office of Indian Housing in the Bureau of Indian Affairs to administer the program established in this Act and provides that the Director of the Office shall be under the immediate supervision of the Office of the Assistant Secretary for Indian Affairs.

Subsection (b) provides that certain basic authorities and powers created in this legislation shall not be delegated below the Office of the Director of Indian Housing.

Subsection (c) provides that the employee and administrative costs of the Office shall be appropriated under authority of this Act and shall be separately set out in budget requests to the Congress. In addition, funds appropriated under authority of this Act may not be used for any other purposes.

The Committee adopted these provisions to insure that the Bureau of Indian Affairs, in an operation of the Indian housing program, is more closely accountable to the Congress for the use of funds appropriated and for the implementation of the programs. In addition, the Committee feels that these provisions will make the BIA, in carrying out the housing program, more responsive to the needs and concerns of the Indian tribes and people.

The Committee received testimony from numerous Indian witneses urging that S. 856 be amended to make its provisions and programs subject to tribal contracting under the terms of the Indian, Self-Determination Act (88 Stat. 2203; Public Law 93-638). The Committee rejected those recommendations on the gounds that the housing programs established by this Act are completely consistent with the philosophy and intent of Public Law 93-638. The intent of that law was to provide a mechanism for the transfer of the operation of programs administered by the Bureau of Indian Affairs and the Indian Health Service to the tribles. That is exactly the intent and result of the provisions of S. 856. S. 856 provides financing to Indian tribes to administer an Indian housing program

for its members. After approval of a Project Agreement, the responsibility for administration and management of the housing program rests with the tribes or its designated tribal housing agency. The authorities remaining with the Bureau of Indian Affairs or the Secretary are those of the approval of applications and project agreements and the monitoring of the implementation of those agreements. These functions are not appropriate for contracting to the tribes in that they would result in the tribal applicants evaluating and approving their own proposals.

TECHNICAL ASSISTANCE

Section 402

Section 402 authorizes the Secretary to provide training and technical assistance to Indian tribes and assisted families under this program, using not to exceed one per cent of the funds authorized under this Act. The Committee expects that the Secretary, acting directly or through the tribal housing agencies, would establish a strong program for providing assisted families with basic home maintenance courses and training.

INDIAN HEALTH SERVICE

Section 403

Section 403 provides that the Indian Health Service in the Department of Health and Human Services will continue to be responsible for providing sanitation facilities for housing constructed with funds under this Act. This section will insure that the Secretary of the Interior and the Secretary of Health and Human Services closely coordinate their efforts in this regard to insure that planning and appropriation requests for housing under this Act are complemented by planning for housing under this Act are complemented by planning and appropriation requests for necessary sanitation and road facilities to serve such housing.

The Committee has rejected proposals that the sanitation responsibilities of the Indian Health Service be transferred to the Bureau of Indian Affairs. While such a transfer would appear to achieve some greater administrative efficiency, the evidence suggests otherwise. The sanitation engineers of the Indian Health Service are dispersed throughout Indian country and their employment results in minimal administrative overhead. Moreover, the Indian Health Service is charged with providing health care to Indians on the reservations and eliminating the great disparity in the incidence of disease having environmental causes among Indians. The Committee believes that responsibility to provide sanitation facilities on Indian reservations is primarily a health function and should remain with the agency responsible for health care.

SITE IMPROVEMENTS

Section 404

Subsection (a) provides that, within multi-unit housing projects, site-improvements, streets, and driveways shall be funded with project funds and shall be consistent with general BIA standards.

Subsection (b) simply makes clear that all-weather access roads to such projects shall continue to be the responsibility of the Bureau of Indian Affairs out of existing authorities and appropriations.

HOUSING INVENTORY

Section 405

Section 405 requires the Secretary to conduct and submit to the Congress a biennial housing inventory on current Indian housing needs and conditions.

RULEMAKING

Section 406

Section 406 relates to the promulgation of rules and regulations to carry out terms of the Act.

RELATION TO OTHER PROGRAMS

Section 407

Section 407 provides that assistance provided under this Act not exclude Indians and Indian tribes from being eligible for other federally assisted housing programs.

LABOR STANDARDS

Section 408

Subsection (a) requires the application of the Davis-Bacon Act of March 3, 1931 (40 U.S.C. 276a to 276a-5) to all construction, alteration, or repair work funded under titles I and II of this Act.

Subsection (b) authorizes Indian tribes to establish a tribal training program in conjunction with housing construction projects with the approval of the Secretary of Labor in cooperation with the Secretary of the Interior. Wages paid to trainees under the approved training program will not be less than 75 percent of the predetermined Davis-Bacon rates and such workers shall comprise no more than 33⅓ percent of those employed in any class of laborers and mechanics. The Secretary is authorized to establish appropriate standards necessary to carry out this subsection.

Subsection (c) provides that any Indian tribe, village, or other eligible entity in Alaska may request a waiver of the labor standards set forth in the Davis-Bacon Act and a waiver shall be available and applicable only to construction projects of 20 units or less.

Subsection (d) authorizes that $5 million per year for training programs under subsection (b).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

See attached letter of July 5, 1983 Senator Andrews from Alice M. Rivlin.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11 of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement regarding the regulatory impact of S. 856.

Enactment of this legislation will require that the Department of the Interior promulgate regulations to implement Titles I, II and III. Title I provides explicit statutory base for the housing improvement program which has been in effect at the Department of the Interior for many years. Title II will require regulations to implement the housing assistance program and govern the revolving fund established by this legislation. Title III will require regulations to implement the loan guarantee program.

It is not expected that the additional paperwork and/or regulatory requirements resulting from these regulations will be greater than for the current HUD Indian housing program.

EXECUTIVE COMMUNICATIONS

The Select Committee on Indian Affairs received no formal communications from the Administration on S. 856. The Department of the Interior, the Department of Housing and Urban Development, and the Indian Health Service at the Department of Health and Human Services, each testified before this Committee on Indian housing programs. Each opposed S. 856 and supported the housing program proposed by the Administration. A summary of their testimony follows.

The Department of the Interior set forth nine criteria that the Administration believes are important to an effective Indian housing program:

(1) The program should rely solely or predominantly on Federal funds or guarantees, but should facilitate the attraction of private capital.

(2) There should be a defined income level beyond which persons would not be eligible for Federal housing assistance.

(3) Tribal lands upon which housing is built should not be subject to attachment, but other forms of property and income of tribes or individuals should be pledged to guarantee programs.

(4) The program should be designed to hold down administrative overhead.

(5) Housing related infrastructure (water and sanitation construction) should be supported out of a single program and appropriation.

(6) The program should produce the maximum number of units at the least cost.

(7) The program should require at least some minimal individual contributions from the owners or renters and provide incentives for proper maintenance and care.

(8) The program should permit culturally appropriate standards and codes, without imposition of unnecessarily detailed construction standards and with provision for waiver of standards to meet local conditions.

(9) The program should serve only Indians living on trust or restricted lands. The premise for this criteria is that inalien-

ability is the key reason for a special housing program, and other programs are available to Indians who are poor or live in rural areas.

Issues raised by the Department of Housing and Urban Development were as follows:

(1) Title III of S. 856 establishes a loan guarantee program to facilitate home mortgage loans for Indians from private sources. HUD contends the program is inadequate because: (a) there is no authorization for financing in the secondary mortgage market; (b) it does not provide for insurance of construction advances; and (c) lenders would only receive 95 percent return on their investment in cases of default as opposed to FHA guarantees of 100 percent.

(2) The revolving fund established by Title II will not reduce the federal role in construction of Indian housing.

(3) The requirement for family contribution under Title II assisted housing are not as stringent as current HUD requirements.

(4) The tribal governments will not be legally accountable in the event of defaults by an Indian Housing Agency.

(5) HUD disagrees with the housing standards established for Title I and II.

(6) S. 856 continues the current method for funding of water and sanitation construction through the Indian Health Service and the Department of Health and Human Services. The Administration recommendation is to transfer this function to HUD and consolidate the funding of construction of this infrastructure with the basic housing program.

(7) Establishment of the housing program at the Department of the Interior instead of HUD will require development of new staff and training as opposed to utilization of existing, fully trained staff at HUD.

The Indian Health Service at the Department of Health and Human Services opposed S. 856 and supported the Administration proposal on the grounds that their function in the environmental health field would be consolidated with the HUD housing construction program, but they would continue to have an advisory role.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 5, 1983.

Hon. MARK ANDREWS,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 856, the Indian Housing Act of 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

JULY 5, 1983.

1. Bill No.: S. 856.
2. Bill title: Indian Housing Act of 1983.
3. Bill status: As ordered reported by the Senate Select Committee on Indian Affairs, June 28, 1983.
4. Bill purpose: The bill establishes three programs aimed at improving the quality of housing available to American Indians, through direct grants, direct loan and other financial assistance, and loan guarantees. In addition, S. 856 would establish in the Bureau of Indian Affairs an Office of Indian Housing Programs to administer programs created by the bill, and would authorize funds for tribal training programs in conjunction with housing construction resulting from the bill.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988
Estimated authorization level	137.4	247.2	296.8	305.3	−11.2
Estimated outlays	40.5	111.6	198.0	258.4	188.4

The costs of this bill fall within budget function 450.

In addition, Title III of the bill authorizes the Secretary to guarantee up to $400 million in loans for housing on trust land. This provision creates a potential contingent liability of the government of up to $400 million, although the bill provides for guarantee fees and other resources to assure the solvency of the guarantee fund under normal market conditions.

Basis of estimate

For the purposes of this estimate, it has been assumed that the bill would be enacted in fiscal year 1983 and that all funds authorized to be appropriated would be available for obligation at the start of each fiscal year. Outlays for each program are assumed to occur at rates comparable to similar housing programs presently administered by the Departments of the Interior and Housing and Urban Development. However, CBO has assumed that the need to establish tribal housing agencies and the resulting training, planning and assessment requirements will prevent programs other than those authorized by Title I from becoming fully operational before fiscal years 1985 and 1986.

Since each program authorized by the bill allows for a mixture of assistance structured for each tribal applicant, it is not possible to project program activity with certainty. For the purposes of this estimate, CBO has assumed that all new construction projects authorized by the bill would be constructed during fiscal years 1985 through 1987, and that no significant repayments would be made or defaults would occur during that period.

Total outlays have been estimated based on the assumption that 3 percent of all Title II money would be disbursed in the year authorized for tribal planning, that 1 percent of funds authorized for

Titles I and II would be used for technical assistance and training, and that 3 percent of the authorizations for Titles I and II would be used to operate the Office of Indian Housing Programs in the Department of the Interior. Actual operation of these programs may result in a different allocation of funds. In addition, 10 percent of funds authorized for Title II are assumed to be used for conventional downpayments authorized by Section 218.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 12, 1983, the Congressional Budget Office prepared a cost estimate for H.R. 1928, as ordered reported by the House Committee on Interior and Insular Affairs. The two bills are substantially the same, and the only difference in budget impact is attributable to the $5 million per year for tribal training programs authorized by S. 856, but not by the House bill.

9. Estimate prepared by: Linwood T. Lloyd (226-2860).

10. Estimate approved by: C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

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